Nos. 90-1721, 90-1725, 90-1760, 90-1949

Supreme Court, U.S.
FILED
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

NEW YORK CITY PUBLIC UTILITY SERVICE,
Petitioner,

v.

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent.

VERMONT DEPARTMENT OF PUBLIC SERVICE,
Petitioner,

v.

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent.

COUNTY OF WESTCHESTER
PUBLIC UTILITY SERVICE AGENCY,
Petitioner,

v.

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent.

JAMES E. O'NEIL, ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND AND THE RHODE ISLAND PUBLIC UTILITIES COMMISSION,
Cross Petitioners,

v.

NEW YORK CITY PUBLIC UTILITY SERVICE, VERMONT DEPARTMENT OF PUBLIC SERVICE AND COUNTY OF WESTCHESTER PUBLIC UTILITY SERVICE AGENCY,
Cross Respondents.

On Petition For A Writ Of Certiorari To The United States Court of Appeals For The Second Circuit

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PUBLIC SYSTEMS' SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITIONS FOR WRITS OF CERTIORARI

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

Nos. 90-1721, 90-1725, 90-1760, 90-1949

NEW YORK CITY PUBLIC UTILITY SERVICE, *et al.*,
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v.

FEDERAL ENERGY REGULATORY COMMISSION,
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PUBLIC SYSTEMS' SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITIONS FOR WRITS OF CERTIORARI

Respondents Allegheny Electric Cooperative, Inc., the City of Cleveland, Ohio, the Connecticut Municipal Electric Energy Cooperative, the Massachusetts Municipal Wholesale Electric Company, the Municipal Electric Utilities Association of New York State and the Public Power Association of New Jersey (collectively referred to herein as "Public Systems"), file this supplemental brief in opposition to the petitions for writs of certiorari filed in cases numbered 90-1721, 90-1725, 90-1760 and 90-1949 in order to bring

to the attention of the Court new matter that was not available at the time Public Systems filed their primary brief in opposition. Sup. Ct. Rule 15.7.

Petitioners Vermont Department of Public Service (Petition at 12, 19) and New York City Public Utility Service (Petition at 8) rely on the dissent in *Salt Lake City v. Western Area Power Administration*, 926 F.2d 974 (10th Cir. 1991), *reh'g denied* (April 18, 1991), in partial support of their petitions.

In *Salt Lake*, all deadlines for parties to seek further review after the denial of rehearing expired on July 17, 1991. No petition for a writ of certiorari was filed and the *Salt Lake* decision is now final in all respects.

There was never any basis for certiorari in reliance on a dissent. There certainly is none now given the finality of the *Salt Lake* majority decision.

The Court should deny the pending petitions for writs of certiorari.

Dated: August 9, 1991

Respectfully submitted,

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